

BEFORE THE ADDITIONAL MASTER III,
HIGH COURT, MADRAS
TOS.No.20 OF 2018

Date :19.08.2024

Time :02.05 P.M

Name : Mr. S.B.S.Raman (PW2)

Cross Examination by Mr. Abdul Majeed, Learned Counsel for the D2.

Solemnly affirmed:

Q61: For how many years you have been practising?

A: Since 1978.

Q62: How many testamentary instruments have you drafted in your entire career and in how many of them as a scribe you have examined yourself before any court of law?

A: I have drafted several in my career and I do not remember the exact number. I have never been examined in this connection before any court. I am not examining myself. Someone is examining me.

Q63: Have you ever received any summons from this court to depose in this case?

A: No.

Q64: Then at whose behest have you come before this court to depose?

A: At the behest of the counsel for the plaintiff.

Q65: Whether any notice of any sort was sent by the counsel for the plaintiff to depose evidence in this court?

A: No notice was given to me.

Q66: (The original petition is shown to the witness) Can you see the petition and say whether the original OP was filed only by you or somebody?

A: Yes, I have filed this OP.

Q67: Can you state the reason why the petitioner/ plaintiff has sought change of vakalat from you after filing of the OP and engaged some other advocate?

A: Because I have reduced my practice and reduced my work load. I have handed over the cases back to the clients for them to engage other counsel.

Q68: Is it fair on your part having drafted the Will of C.P. Duraisingam and then act as the counsel and filed OP for the beneficiary as well as to depose before the court when the Will is being contested?

A: I do not find any conflict of interest.

Q69: (Ex.P2 is shown to the witness) Who has made the insertions in ink found in Ex.P2, Will?

A: These insertions are in the handwriting of C.P. Duraisingam.

Q70: Were these insertions made in your presence?

A: No.

Q71: Then is it correct to say that what you have said in your previous answer to question no.69 is only an assumption.

A: I know the handwriting of C.P. Duraisingam and these insertions are in his handwriting.

Q72: How do you know Mr. Duraisingam and from when onwards have you been acquainted with him?

A: Since 1981 till his death.

Q73: Did you attend his funeral?

A: I do not remember.

Q74: When did you reveal to the legal heirs of Duraisingam about the existence of Ex.P2, Will?

A: Mr. C.P. Duraisingam's instructions were that he had already informed his legal heirs about the terms of his disposition and so there is no necessity for me to reveal anything to his legal heirs.

Q75: (Ex.P5 is shown to the witness) Then what was the necessity for you to call a meeting on 02.06.2013?

A: It was necessary at some stage to inform the legal heirs and it was done then. I do not remember as to why I decided to call the legal heirs for the meeting.

Q76: When you were aware that Mr. C.P. Duraisingam died on 22.10.2008 what made you may not open the Will till the meeting found in Ex.P5 on 02.06.2013?

A: I find from Ex.P10 that Mr. C.P. Duraisingam died on 22.10.2008. I do not remember who conveyed the news of his death to me or whether I attended his funeral. There is no question of my opening the Will without the heirs of Mr. C.P. Duraisingam those who could be traced made available.

Q77: (Ex.P5 is shown to the witness) Kindly see Ex.P5 and say who were present in the meeting on 02.06.2013?

A: Kishori Gopala krishnan (daughter), C.D.Krishnamurthy (son), Suman Sukumaran (daughter), in addition I find A.G. Chandrasekarn, A.G. Hemanathan and Pavithra Kumari were present.

Q78: (Ex.P5 is shown to the witness) Why the name of A.G. Chandrasekarn, A.G. Hemanathan and Pavithra kumari could not be found in the list of presentees written in your handwriting in Ex.P5?

A: Probably because they are not directly legal heirs but children of living legal heirs.

Q79: Has this explanation given now by you found in the proof affidavit filed by you and why?

A: No, it was not necessary.

Q80: I put it to you that signatures of those who were not present were scouted and added at your instance to show as if things have happened fairly.

A: I deny.

Q81: How do you deny the same?

A: I do not understand this question.

Q82: I put it to you that you cannot deny that the signatures of those who were not present were scouted and added at your instance to show as if things have happened fairly.

A: I do not even understand this question. Witness adds: This question is like asking “have you stopped beating your wife?”.

Q83: I put it to you that knowing fully well that there was no such Will in existence, you have taken your sweet time to create a Will and enacted drama in front of the legal heirs and for that purpose only you took 5 years to inform them after the death of C.P. Duraisingam.

A: I deny.

Q84: What are the cases and their numbers in which you have appeared for Mr.C.P. Duraisingam?

A: I have not appeared for Mr. C.P. Duraisingam in any case. I have issued notices on behalf of Fermier Industries in which Mr. C.P. Duraisingam worked.

Q85: When were these notices on behalf of Fermier Industries sent?

A: It was in the 1980's. I do not remember the exact dates.

Q86: In Ex.P2, it was signed and stated that the Will was drafted as per the instructions of C.P. Duraisingam. Whether any draft was prepared by you or have

you submitted the instruction notes before this court?

A: My drafts prepared by me in long hand were shared with the client, discussed and corrected before entering into the computer and printed. I do not remember whether I entered into the computer myself or my typist did that. I did not preserve the drafts and so, they are not filed into court.

Q87: In which place did these meetings between you and Mr. C.P. Duraisingam take place?

A: In my chambers and in my home office.

Q88: Mr. Duraisingam was aged about 73 years when the Will was executed. Who accompanied him?

A: At the age of 73 years, Mr. Duraisingam enjoyed good health and was employed at that time with Fermier Industries. Nobody accompanied him to work or needed to accompany him when he visited my chambers or office.

Q89: Did you see Mr. Duraisingam signing the document in Ex.P2?

A: No, I did not.

Q90: Why?

A: I gave Mr. Duraisingam the option of registering the Will or not. I told him that the Will was to be registered, they would asked for the signature of the person who drafted the Will and so I signed the document and gave it to him.

Q91: I put it to you that you signed a blank Will, where there was no signature of C.P. Duraisingam.

A:I have signed the document as the person who drafted it and not as a witness.

Q92: Can you tell this court as to when the so called sealed cover was handed over to you by C. P. Duraisingam?

A: In September, 1994.

Q93:How do you recollect this date and on what basis are you making this

statement?

A: Mr. Duraisingam brought the signed Will to me shortly after signing it and gave it to me. I remember this because of the date on the Will as he came shortly after executing it.

Q94: Who has made ready the proof affidavit filed by you, at whose instructions and where?

A: Counsel for the plaintiff after discussions with me prepared the proof affidavit. I do not know where it was prepared.

Q95: When you have specifically stated in your proof affidavit that the Will was handed over to you in the 2nd week of September, now what made you to change it now to September, 1994?

A: I am still saying that it was handed over to me in September, 1994.

Q96: How many days after the execution of the Will in Ex.P2 was it handed over to you?

A: I do not remember.

Q97: I put it to you that having seen the date in Ex.P2, now you have chosen to retract and mislead the court.

A: I deny.

Q98: As per Ex.P5, the meeting was convened only on 02.06.2013 for opening of the Will whereas in your proof affidavit you have stated that immediately after the information of the death of the testator you have convened the meeting.

A: I deny. The word “immediately” is not found in the proof affidavit but found in the question.

Q99: Then why have you not explained what made you not convene a meeting for 5 years after the death of the testator?

A: The legal heirs were aware of the terms of the disposition. I am not able to

attribute any reason as to why this meeting was called 5 years after the death of the testator.

Q100: Then what was the reason for not handing over the Will immediately after the death of the testator as instructed by the testator as stated by you in para 2 of your proof affidavit.

A: After the death of the testator, this was earliest I could call the meeting considering my own pre occupations at that time, need to locate the legal heirs and send communication. In fact, some of the legal heirs of the deceased legal heirs are abroad and are not traceable till date.

Q101: You said communication. What are the communication and how did you contact the legal heirs?

A: I do not remember.

Q102: I put it to you that it was only the petitioner, C.D. Krishnamurthy who has brought the legal heirs and also the Will on 02.06.2013 and for this reason alone you have conveniently said that you do not remember the dates of the communication.

A: I deny.

Q103: How many children do you have?

A: Three.

Q104: What are they doing?

A: My Eldest (son) is a music director. My second (daughter) is married and settled in Canada. My third (son) is working as a Assistant Director in the film industry.

Q105: I put it to you that your son-in-law is a builder and since you have personal interest, you have appeared before the court to depose as a witness in this case.

A: My son-in-law is a doctor practicing in Canada.

Q106: You are aware that you are not an attesting witness and only a scribe, and as a scribe you can only let in evidence only if the attesting witnesses are not available. Can you explain to this court as to why you are being examined as PW2.

A: Probably because I am going on a tour to the US and Canada and would be away for 10 weeks.

Q107: Since you know as per section 68 of Evidence act, a Will could be proved only through as attesting witness, what made you to let in evidence when your presence itself is not required as a witness.

A: This question is matter of argument before the court hearing the case and not a question to be posed to a witness. Since asked, probably to let evidence, so that my prolonged absence may not delay further recording of evidence in this case.

Q108: Have you got the leave from the court to depose before the examination of the attesting witnesses?

A: I am not the counsel in this case. I am here only as a witness.

Q109: I put it to you that only for the purpose that one of the attesting witness, being your junior should not drift away in his examination and make statements corroborating your evidence you have purposely chosen to examine yourself first inspite of you being only a scribe and not required under the law to give evidence.

A: If the attesting witness were to corroborate my evidence there is no question of any discrepancy. Only if there is any discrepancy, will there be any need for corroboration. This question does not make sense to me.

Re-examination: Nil.

Time: 03.35 p.m

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-III